

Serial No. 10/780,595

- 4 -

Art Unit: 2665

REMARKS

Claims 1 and 6 have been amended. Claims 1 – 6 are pending in this Application.

Reconsideration and further examination is respectfully requested.

Claims Rejections – 35 USC § 112

Claims 1 – 6 were rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, as indefinite. The Applicants have amended claims 1 and 6 in accordance with the suggestions in the Office Action to overcome this rejection.

Claims Rejections – 35 USC § 101

Claims 1 – 6 were rejected under 35 U.S.C. 101 as lacking utility. The Applicants have amended claims 1 and 6 in accordance with the suggestions in the Office Action to overcome this rejection.

Claims 1 – 6 were also rejected under 35 U.S.C. 112, 1<sup>st</sup> paragraph. This rejection is overcome by the amendment made in response to the rejection under 35 U.S.C. 101.

Serial No. 10/780,595

- 5 -

Art Unit: 2665

Claims Rejections – 35 USC § 102

Claims 1 – 6 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. US 2004/0054767 A1 by Karaoguz et al. (hereinafter “Karaoguz”).

This rejection is respectfully traversed.

The Applicants’ exemplary claim 1 sets forth:

“A program product in an access point in a wireless communications environment including multiple access points and stations, wherein stations gain network access by associating with one or more of the access points, the program product comprising a computer readable medium having embodied therein a computer program for storing data, the computer program comprising:

logic for keeping track of one or more parameters related to stations in the network;  
logic for evaluating the one or more parameters to produce an evaluation; and  
logic for causing a station to become associated with the access point based upon the evaluation in order to gain network access to communicate with other stations via the access point.”

In accordance with the Applicants’ invention, a computer program in an access point evaluates parameters associated with stations in the network. This evaluation may be used by the program in the access point to cause a station to associate with the access point so the station can now communicate on the network via the access point.

The Office Action refers to paragraphs 33, 45, 21, and 28 to support a contention that Karaoguz teaches logic for evaluating one or more parameters, and logic for causing a station to become associated with the access point based on the evaluation. The Applicants respectfully assert, however, that Karaoguz does not in fact teach or suggest the Applicants’ claimed invention including “logic for causing a station to become associated with the access point based upon the evaluation in order to gain network access to communicate with other stations via the access point”.

Serial No. 10/780,595

- 6 -

Art Unit: 2665

The Applicants specifically refer to paragraph 0029 of Karaoguz. Here it is explained that access points can determine location information for a device. Karaoguz here specifically states "... once wireless coverage is provided for a particular device, and a communication session is established, the access point(s) providing such coverage can initiate the location information feature and can determine the location information of the wireless device." Karaoguz then goes on to explain various ways in which location information can be determined. Karaoguz thus clearly states that a communication session must be established with a station before any location information can be gathered.

At paragraph 36 of Karaoguz, it is stated "Once the wireless device receives the range message signal, the wireless device can process the received range message signal. Furthermore, the wireless device can determine whether or not to further establish communication with the access point, and abort the request." It is not known what is meant here by "further establish communication" since Karaoguz requires that a communication session be established with the device prior to location information determination. Furthermore, Karaoguz does not suggest that this "established communication" allows communication with other devices as the Applicants have claimed. No further information is provided by Karaoguz to indicate what may be meant by the "communication" mentioned in paragraph 0029. Karaoguz thus fails to specifically teach or suggest the Applicants' claimed "logic for causing a station to become associated with the access point based upon the evaluation in order to gain network access to communicate with other stations via the access point". The Applicants therefore respectfully assert that claims 1 – 5 are in condition for allowance. Claim 6 contains limitations similar to those of claim 1. The

Serial No. 10/780,595

- 7 -

Art Unit: 2665

Applicants therefore respectfully assert that claim 1 is allowable for the same reasons as set forth with regard to claim 1.

Claims Rejections – 35 USC § 103

Claims 1 – 6 were rejected under 35 U.S.C. 103(a) as being obvious over Karaoguz. This rejection is respectfully traversed.

In order to establish a *prima facie* case of obviousness, the cited reference must teach or suggest all the claimed limitations. The Applicants respectfully assert that Karaoguz fails to do so. As explained above, Karaoguz fails to teach or suggest the Applicants' claimed invention including "logic for causing a station to become associated with the access point based upon the evaluation in order to gain network access to communicate with other stations via the access point".

The Office Action contends that "if the processing in the access point ... is interpreted not to be the *cause* of a station to become associated with an access point, but rather, as *assisting* the central server in causing a station to become associated with an access point, it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results". The Applicant disagrees that the location of parts can be shifted to produce similar results in this particular case. It is well known to those skilled in the art of networking that centralized and distributed systems operate very differently and provide very different results. The fact that the Applicants' invention operates in an AP rather than a central

Serial No. 10/780,595

- 8 -

Art Unit: 2665

server means that no central location is required for this operation, and no single point of failure exists. Furthermore, the total cost of ownership of the system is lower.

For both these reasons, the Applicants respectfully assert that claims 1 – 6 are in condition for allowance.

Double Patenting

Claims 1 – 6 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 6 of copending Application No. 10/781,458. This rejection will be re-evaluated upon issuance of the claims in either application, and a terminal disclaimer filed if necessary.

Serial No. 10/780,595

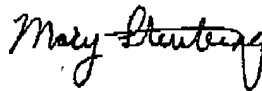
- 9 -

Art Unit: 2665

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-6664 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



10-25-05  
Date

Lindsay G. McGuinness, Reg. No. 38,549  
Mary Steubing, Reg. No. 37,946  
David A. Dagg, Reg. No. 37,809  
Holmes Anderson, Reg. No. 37,272  
Attorney/Agent for Applicant(s)  
Steubing McGuinness & Manaras LLP  
125 Nagog Park  
Acton, MA 01720  
(978) 264-6664

Docket No. 160-054  
Dd: